

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

HB 1123 – SB 1376

March 23, 2017

SUMMARY OF ORIGINAL BILL: Prohibits a candidate for public office and officials of the legislative and executive branch from soliciting a gift as defined pursuant to Tenn. Code Ann. § 3-6-301(10), and requires electronic disclosure be made within seven days following receipt of certain gifts by lobbyists or employers of lobbyists to the Tennessee Ethics Commission (TEC).

FISCAL IMPACT OF ORIGINAL BILL:

NOT SIGNIFICANT

SUMMARY OF AMENDMENT (005611): Deletes and rewrites the original bill such that the only substantive change extends applicability to specific officials.

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:

Unchanged from the original fiscal note.

Assumptions for the bill as amended:

- Under current law, pursuant to Tenn. Code Ann. § 3-6-301(10), gift means any payment, honorarium, subscription, loan, advance, forbearance, lending or deposit of money or services, unless consideration of equal or greater value is received. The term gift does not include campaign contributions otherwise reported by law, a commercially reasonable loan, a gift received from a member of the person's immediate family or relative or the waiver of a registration fee for a conference or educational seminar.
- Pursuant to Tenn. Code Ann. § 3-6-305(a), no employer of a lobbyist or lobbyist may provide a gift to a candidate for public office or official in the legislative or executive branch and no such candidate or official of the legislative or executive branch shall solicit or accept a gift from a lobbyist or employer of a lobbyist.
- The proposed language expands the prohibition to include a gift from persons other than lobbyists or employers of lobbyists and requires certain gifts accepted from a lobbyist or employer of a lobbyist by a candidate or public official to be disclosed electronically within seven days to the TEC.

HB 1123 – SB 1376

- The proposed amendatory language is applicable to each official listed pursuant to Tenn. Code Ann. § 8-50-501(a)(1) through (18).
- The proposed language lists numerous exemptions, including any gift of value less than \$100, which would not require disclosure to the TEC.
- According to TEC, an e-mail address will be created dedicated to receiving such disclosures and any disclosures will be uploaded to the TEC website. These actions can be accomplished with existing staff and within existing resources; therefore there will be no increase in state expenditures.
- It is assumed any penalty assessed for violation of this language would be pursuant to Tenn. Code Ann. § 3-6-306(a)(3)(A) which authorizes TEC to assess a civil penalty not to exceed \$10,000, but for an initial violation candidates and officials shall only be assessed at a rate of 200 percent of the value of the gift or \$25, whichever is greater.
- Under the proposed language, no violation will be considered if the candidate or official who accepted the gift either does not use the gift and returns the gift to the gift-giver or pays consideration of equal or greater value for the gift within a certain time period.
- It is assumed any candidate or official found in violation of disclosure requirements will rectify violations prior to being assessed a penalty; therefore there will be no significant increase to state revenue from penalty assessments.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.



Krista M. Lee, Executive Director

/jrh